

REMARKS

As a preliminary matter, claims 14 and 15 are objected to for the reasons set forth on page 2 of the present Office Action. In response, we would point out to the Examiner that these claims were amended in a Preliminary Amendment submitted on January 18, 2002, and argue that claims 14 and 15 no longer contain the language, “any of claims 1 to 4 or 5 to 9.”

Claims 1, 4, 8, 10, and 13-16 are all the claims pending in the present application, claims 2, 3, 5-7, 9, 11, and 12 having been canceled and new claim 16 having been added, as indicated herein. Claims 10 and 14 are rejected under 35 U.S.C. § 101 as allegedly not being directed to statutory subject matter. Claims 1-15 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Swinkels et al. (US Patent No. 6,795,394).

§101 Rejections - Claims 10 and 14

Claims 10 and 14 are rejected under 35 U.S.C. §101 for the reasons set forth on page 2 of the present Office Action.

With respect to claim 10, Applicants submit that a telecommunications signal is statutory subject matter. The U. S. Patent and Trademark Office has provided that a carrier wave or signal claim can be statutory subject matter. *See Examination Guidelines for Computer Related Inventions, (March 1996)*. Therefore, reconsideration and withdrawal of the rejection under 35 U.S.C. § 101 are respectfully requested.

With respect to claim 14, Applicants amend this claim for clarification purposes, and Applicants believe this amendment would obviate the Examiner’s rejection of claim 14 under 35 U.S.C. § 101.

If the Examiner does not agree that the rejections under 35 U.S.C. § 101 should be withdrawn, Applicants respectfully request that the Examiner contact the undersigned in an effort to effectively and efficiently resolve the issues under 35 U.S.C. § 101.

§102(e) Rejections (Swinkels) - Claims 1-15

Claims 1-15 are rejected over Swinkels for the reasons set forth on pages 3-11 of the present Office Action. Applicants traverse these rejections at least based on the following reasons.

With respect to independent claim 1, Applicants submit that Swinkels does not disclose or suggest at least, “providing at least one additional pair of bytes in the transmitted frames, the at least one additional pair of bytes being used for indicating the requests of span protections of at least two different types at the same time of the request of ring protection,” as recited in claim 1. That is, Swinkels does disclose that messages are passed using overhead bytes in the SONET/SDH frames, such as the K1 and K2 bytes (also know as APS bytes) of the SDH multiplex section overhead, however, according to Applicants’ understanding, Swinkels does not disclose the specific teaching of at least one additional pair of bytes being used for indicating the requests of span protections of at least two different types at the same time of the request of ring protection. Simply stating that messages are passed using overhead bits, as set forth in Swinkels, does not satisfy the specific claimed feature set forth in independent claim 1. Therefore, at least based on the foregoing, Applicants submit that Swinkels does not anticipate claim 1.

Applicants submit that independent claims 10 and 13 are patentable at least based on reasons similar to those set forth above with respect to independent claim 1.

Applicants submit that dependent claims 4, 8, 14, and 15 are patentable at least by virtue of their indirect or direct dependencies from independent claim 1.

Finally, Applicants add new claim 16 to provide a varying scope of coverage. Applicants submit that this claim is patentable at least by virtue of its dependency from independent claim 1.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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